

REMARKS

Applicant respectfully requests reconsideration in view of the following remarks. No claims are amended. Accordingly, claims 20-46 are pending in the application.

I. Claims Rejected Under 35 U.S.C. § 112

Claims 20-46 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Examiner has asserted that claims 20-46 allegedly include new matter in the line that reads as follows: "the picture quality calculated by substituting, into a non-linear function. . . ." In the Final Office Action, the Examiner stated that he found no reference, in the provided disclosure, to the use of a non-linear function for calculating picture quality by substitution of a ratio of value (number of bits, planes, resolution, etc.). Thus, the Examiner concluded that there is no disclosure stating the use of a non-linear function to determine the quality of the image by substituting a value such as the ratio of bits, as is required by claim 20.

As stated in MPEP § 2163, an applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention. See also, Lockwood v. American Airlines, Inc., 107 F.3d 1565, 1572, 41 USPQ2d 1961, 1966 (Fed. Cir. 1997). Moreover, as stated in MPEP 2106(V)(B)(1), the claimed invention subject matter **need not be described literally, i.e., using the same terms**, in order for the disclosure to satisfy the description requirement. For example, paragraph [0087] of the Specification states the following:

A step S4 obtains a picture quality value of the image data after the expansion (expanded image data) by relatively judging the picture quality based on the number of code bits of the entire master image file "M" extracted by the step S2 and the number of code bits of the distributed image compressed code (Motion JPEG2000 data) distributed from the server computer S and calculated by the step S3. For example, the **picture quality value** of the expanded image data **is obtained by substituting into a predetermined function**

a ratio of the number of code bits of the entire master image file "M" extracted by the step S2 and the number of code bits of the distributed image compressed code (Motion JPEG2000 data) distributed from the server computer S and calculated by the step S3.

(emphasis added). Therefore, paragraph [0087] of the Specification discloses that the picture quality of the expanded image data is obtained by substituting into a predetermined function a ratio of the number of code bits of the entire master image file and the number of code bits of the image compressed code. With respect to the predetermined function discussed above, paragraph [0088] of the Specification discloses the following details in connection with Fig. 14:

FIG. 14 is a graph showing an embodiment of the predetermined function that is used to calculate the picture quality value. In FIG. 14, the ordinate indicates the relative picture quality value, and the abscissa indicates the ratio of the numbers of code bits (hereinafter simply referred to as a code bit ratio). Since the number of code bits of the distributed image file "a" is 160 MBytes, the code bit ratio with respect to the number of code bits of the entire master image file "M" which is 200 MBytes, is 0.8. Accordingly, the relative picture quality value of the distributed image file "a." In this case is 90, as shown in FIG. 14. In addition, because the number of code bits of the distributed image file "b" is 100 MBytes, the code bit ratio with respect to the number of code bits of the entire master image file "M" which is 200 MBytes, is 0.5. Accordingly, the relative picture quality value of the distributed image file "b" In this case is 70, as shown in FIG. 14.

(emphasis added). As illustrated in Fig. 14, the graph, depicting the relationship between the ordinate representing the relative picture quality value and the abscissa that indicates the ratio of the numbers of code bits, follows a non-linear function. This is clearly shown in Fig. 14 as the points on the graph form *a curved path*. Therefore, the "predetermined function" as disclosed in the Specification should be understood as being *synonymous with a non-linear function*. In contrast, a graph of a linear function is in the form of *a straight line*. Moreover, for example, as disclosed above in paragraph [0088] of the Specification, when the ratio of number of code bits of the image file with respect to the number of code bits of the entire master image file is **0.5**, the non-linear function produces **a relative picture quality of 70**. However, as shown in Fig. 14, when the ratio of number of code bits of the image file with respect to the number of code bits of the entire master image file is **1.0**, the non-linear function produces **a relative picture quality value of 100**. In comparison with the relative picture quality of 70 with the ratio of 0.5, because the relative picture quality of 100 has the ratio of 1.0 that is *not, for example, double the value of*

70, a conclusion that the “predetermined function” is, in fact, a non-linear function is clearly supported by the Specification.

Thus, in light of the above disclosure of the Specification and discussion, the elements of “the picture quality to be calculated by substituting, into a non-linear function, a ratio of a number of code bits of an entire file of the master image data and a number of code bits of the dynamic image data,” as recited in claim 20 are supported and clearly described by the Specification. Therefore, for at least these reasons, Applicant submits that claim 20 complies with 35 U.S.C. § 112, first paragraph.

Independent claims 21, 23, 24, 27, 29, 30, 32, 33, 36, 38, 39, 41, 42, and 45 recite analogous elements to those discussed above in connection with claim 20. Thus, these claims are also compliant under § 112, first paragraph for at least the reasons discussed above in connection with claim 20. Further, dependent claims 22, 25, 26, 28, 31, 34, 35, 37, 40, 43, 44 and 46 comply with 35 U.S.C. § 112, first paragraph, because these claims were rejected solely based on their dependencies on base claims 21, 23, 24, 27, 29, 30, 32, 33, 36, 38, 39, 41, 42, or 45. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 21-46.

II. Reply to Examiner’s Comments in the Response to Arguments

Applicant acknowledges the Examiner’s indication that the § 112, second paragraph rejection of claims 24-26 and the rejections of claims 20-46 have been withdrawn in light of Applicant’s response filed on April 8, 2008.

The Examiner then stated that “applicant has also made the argument that the invention (as claimed) requires that the quality information be known prior to the compression of the file, but this language is not currently in the claims.” In response, Applicant respectfully submits that such an argument was not made in the April 8, 2008 response as alleged by the Examiner. Instead, Applicant believes that the Examiner has inadvertently confused Applicant’s argument on page 15 of the April 8, 2008 response describing the previously cited art (i.e., U.S. Patent No. 7,076,103 issued to Yamada) as being directed to the claims of the instant application. However, this is not the case here because the argument was clearly made in connection with the previously

cited art to traverse the Examiner's previous taking of Official Notice. Thus, Applicant believes that the claims do not require the proposed claim language of "the quality information be known prior to the compression of the file," as suggested by the Examiner.

III. Allowable Subject Matter

Applicants note with appreciation the Examiner's indication that claims 20-46 would be allowable if the rejection under 35 U.S.C. § 112, first paragraph are overcome. In response, Applicants submit that claims 20-46 are compliant under § 112, first paragraph for at least the reasons set forth above. Thus, claims 20-26 are in condition for allowance and such action is earnestly solicited at the Examiner's earliest convenience.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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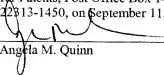
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